

House File 805 - Enrolled

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HOUSE FILE 805

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1 3 AN ACT
1 4 RELATING TO AGRICULTURAL PRODUCTION INCLUDING ANIMAL
1 5 FEEDING OPERATIONS, BY PROVIDING FOR THE REGULATION OF
1 6 OPEN FEEDLOT OPERATIONS, AND AGRICULTURAL PRODUCTION
1 7 LIENS, AND PROVIDING FOR PENALTIES.
1 8
1 9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 10
1 11 DIVISION I
1 12 OPEN FEEDLOT OPERATIONS
1 13 SUBCHAPTER I
1 14 GENERAL PROVISIONS
1 15 Section 1. NEW SECTION. 459A.101 TITLE.
1 16 This chapter shall be known and may be cited as the "Animal
1 17 Agriculture Compliance Act for Open Feedlot Operations".
1 18 Sec. 2. NEW SECTION. 459A.102 DEFINITIONS.
1 19 1. "Alternative technology system" or "alternative system"
1 20 means a system for open feedlot effluent control as provided
1 21 in section 459A.303.
1 22 2. "Animal" means the same as defined in section 459.102.
1 23 3. "Animal feeding operation" means the same as defined in
1 24 section 459.102.
1 25 4. "Animal unit" means the same as defined in section
1 26 459.102.
1 27 5. "Animal unit capacity" means a measurement used to
1 28 determine the maximum number of animal units that may be
1 29 maintained as part of an open feedlot operation.
1 30 6. "ASTM international" means the American society for
1 31 testing and materials international.
1 32 7. "Commission" means the environmental protection
1 33 commission created pursuant to section 455A.6.
1 34 8. "Department" means the department of natural resources.
1 35 9. "Document" means any form required to be processed by
2 1 the department under this chapter, including but not limited
2 2 to applications for permits or related materials as provided
2 3 in section 459A.205, soils and hydrogeologic reports as
2 4 provided in section 459A.206, construction certifications as
2 5 provided in section 459A.207, nutrient management plans as
2 6 provided in section 459A.208, and notices required under this
2 7 chapter.
2 8 10. "Nutrient management plan" or "plan" means a plan
2 9 which provides for the management of open feedlot effluent,
2 10 including the application of effluent as provided in section
2 11 459A.208.
2 12 11. "Open feedlot" means a lot, yard, corral, building, or
2 13 other area used to house animals in conjunction with an open
2 14 feedlot operation.
2 15 12. "Open feedlot effluent" or "effluent" means a
2 16 combination of manure, precipitation-induced runoff, or other
2 17 runoff from an open feedlot before its settleable solids have
2 18 been removed.
2 19 13. "Open feedlot operation" or "operation" means an
2 20 unroofed or partially roofed animal feeding operation if crop,
2 21 vegetation, or forage growth or residue cover is not
2 22 maintained as part of the animal feeding operation during the
2 23 period that animals are confined in the animal feeding
2 24 operation.
2 25 14. "Open feedlot operation structure" means an open
2 26 feedlot, settled open feedlot effluent basin, a solids
2 27 settling facility, or an alternative technology system. "Open
2 28 feedlot operation structure" does not include a manure storage
2 29 structure as defined in section 459.102.
2 30 15. "Operating permit" means a permit which regulates the
2 31 operation of an open feedlot operation as issued by the
2 32 department or the United States environmental protection
2 33 agency, including as provided in state law or pursuant to the
2 34 federal Water Pollution Control Act, Title 33, U.S.C., ch.
2 35 126, as amended, and 40 C.F.R., pt. 124.
3 1 16. "Research college" means an accredited public or
3 2 private college or university, including but not limited to a
3 3 university under the control of the state board of regents as
3 4 provided in chapter 262, or a community college under the
3 5 jurisdiction of a board of directors for a merged area as

3 6 provided in chapter 260C, if the college or university
3 7 performs research or experimental activities regarding animal
3 8 agriculture or agronomy.

3 9 17. "Settled open feedlot effluent" or "settled effluent"
3 10 means a combination of manure, precipitation-induced runoff,
3 11 or other runoff originating from an open feedlot after its
3 12 settleable solids have been removed.

3 13 18. "Settleable solids" or "solids" means that portion of
3 14 open feedlot effluent that meets all of the following
3 15 requirements:

3 16 a. The solids do not flow perceptibly under pressure.
3 17 b. The solids are not capable of being transported through
3 18 a mechanical pumping device designed to move a liquid.
3 19 c. The constituent molecules of the solids do not flow
3 20 freely among themselves but do show the tendency to separate
3 21 under stress.

3 22 19. "Settled open feedlot effluent basin" or "basin" means
3 23 an impoundment which is part of an open feedlot operation, if
3 24 the primary function of the impoundment is to collect and
3 25 store settled open feedlot effluent.

3 26 20. "Solids settling facility" means a basin, terrace,
3 27 diversion, or other structure or solids removal method which
3 28 is part of an open feedlot operation and which is designed and
3 29 operated to remove settleable solids from open feedlot
3 30 effluent. A "solids settling facility" does not include a
3 31 basin, terrace, diversion, or other structure or solids
3 32 removal method which retains the liquid portion of open
3 33 feedlot effluent for more than seven consecutive days
3 34 following a precipitation event.

3 35 21. "Water of the state" means the same as defined in
4 1 section 455B.171.

4 2 22. "Waters of the United States" means the same as
4 3 defined in 40 C.F.R., pt. 122, } 2, as that section exists on
4 4 the effective date of this Act.

4 5 Sec. 3. NEW SECTION. 459A.103 SPECIAL TERMS.

4 6 For purposes of this chapter, all of the following shall
4 7 apply:

4 8 1. a. Two or more open feedlot operations under common
4 9 ownership or common management are deemed to be a single open
4 10 feedlot operation if they are adjacent or utilize a common
4 11 area or system for open feedlot effluent disposal.

4 12 b. For purposes of determining whether two or more open
4 13 feedlot operations are adjacent, all of the following shall
4 14 apply:

4 15 (1) At least one open feedlot operation structure must be
4 16 constructed on or after July 17, 2002.

4 17 (2) An open feedlot operation structure which is part of
4 18 one open feedlot operation is separated by less than one
4 19 thousand two hundred fifty feet from an open feedlot operation
4 20 structure which is part of the other open feedlot operation.

4 21 c. For purposes of determining whether two or more open
4 22 feedlot operations are under common ownership, a person must
4 23 hold an interest in each of the open feedlot operations as any
4 24 of the following:

4 25 (1) A sole proprietor.
4 26 (2) A joint tenant or tenant in common.
4 27 (3) A holder of a majority equity interest in a business
4 28 association as defined in section 202B.102, including but not
4 29 limited to as a shareholder, partner, member, or beneficiary.

4 30 An interest in the open feedlot operation under
4 31 subparagraph (2) or (3) which is held directly or indirectly
4 32 by the person's spouse or dependent child shall be attributed
4 33 to the person.

4 34 d. For purposes of determining whether two or more open
4 35 feedlot operations are under common management, a person must
5 1 have significant control of the management of the day-to-day
5 2 operations of each of the open feedlot operations. Common
5 3 management does not include control over a contract livestock
5 4 facility by a contractor, as defined in section 202.1.

5 5 2. An open feedlot operation structure is "constructed"
5 6 when any of the following occurs:

5 7 a. Excavation commences for a proposed open feedlot
5 8 operation structure or proposed expansion of an existing open
5 9 feedlot operation structure.

5 10 b. Forms for concrete are installed for a proposed open
5 11 feedlot operation structure or the proposed expansion of an
5 12 existing open feedlot operation structure.

5 13 c. Piping for the movement of open feedlot effluent is
5 14 installed within or between open feedlot operation structures
5 15 as proposed or proposed to be expanded.

5 16 3. In calculating the animal unit capacity of an open

5 17 feedlot operation, the animal unit capacity shall not include
5 18 the animal unit capacity of any confinement feeding operation
5 19 building as defined in section 459.102, which is part of the
5 20 open feedlot operation.

5 21 4. An open feedlot operation structure is abandoned if the
5 22 open feedlot operation structure has been razed, removed from
5 23 the site of an open feedlot operation, filled in with earth,
5 24 or converted to uses other than an open feedlot operation
5 25 structure so that it cannot be used as an open feedlot
5 26 operation structure without significant reconstruction.

5 27 5. All distances between locations or objects provided in
5 28 this chapter shall be measured in feet from their closest
5 29 points.

5 30 6. The regulation of open feedlot effluent shall be
5 31 construed as also regulating settled open feedlot effluent and
5 32 solids.

5 33 7. "Seasonal high=water table" means the seasonal high=
5 34 water table as determined by a professional engineer pursuant
5 35 to the following requirements:

6 1 a. The seasonal high=water table shall be determined by
6 2 evaluating soil profile characteristics such as color and
6 3 mottling from soil corings, soil test pits, or other soil
6 4 profile evaluation methods, water level data from soil corings
6 5 or other sources, and other pertinent information.

6 6 b. If a drainage tile line to artificially lower the
6 7 seasonal high=water table is installed as required by this
6 8 section, the level to which the seasonal high=water table will
6 9 be lowered will be the seasonal high=water table.

6 10 Sec. 4. NEW SECTION. 459A.104 GENERAL AUTHORITY ==
6 11 COMMISSION AND DEPARTMENT == PURPOSE == COMPLIANCE.

6 12 1. The commission shall establish by rule adopted pursuant
6 13 to chapter 17A, requirements relating to the construction,
6 14 including expansion, or operation of open feedlot operations,
6 15 including related open feedlot operation structures.

6 16 2. Any provision referring generally to compliance with
6 17 the requirements of this chapter as applied to open feedlot
6 18 operations also includes compliance with requirements in rules
6 19 adopted by the commission pursuant to this section, orders
6 20 issued by the department as authorized under this chapter, and
6 21 the terms and conditions applicable to licenses,
6 22 certifications, permits, or nutrient management plans required
6 23 under this chapter.

6 24 3. The purpose of this chapter is to provide requirements
6 25 relating to the construction, including the expansion, and
6 26 operation of open feedlot operations, and the control of open
6 27 feedlot effluent, which shall be construed to supplement
6 28 applicable provisions of chapter 459. If there is a conflict
6 29 between the provisions of this chapter and chapter 459, the
6 30 provisions of this chapter shall prevail.

6 31 Sec. 5. NEW SECTION. 459A.105 EXCEPTION TO REGULATION.

6 32 1. Except as provided in subsection 2, the requirements of
6 33 this chapter which regulate open feedlot operations, including
6 34 rules adopted by the department pursuant to section 459A.104,
6 35 shall not apply to research activities and experiments
7 1 performed under the authority and regulations of a research
7 2 college, if the research activities and experiments relate to
7 3 an open feedlot operation structure or the disposal or
7 4 treatment of effluent originating from an open feedlot
7 5 operation.

7 6 2. The requirements of section 459A.410, including rules
7 7 adopted by the department under that section, apply to
7 8 research activities and experiments performed under the
7 9 authority and regulations of a research college.

7 10 SUBCHAPTER II
7 11 DOCUMENTATION

7 12 Sec. 6. NEW SECTION. 459A.201 DOCUMENT PROCESSING
7 13 REQUIREMENTS.

7 14 1. The department shall adopt and promulgate forms
7 15 required to be completed in order to comply with this chapter,
7 16 including forms for documents that the department shall make
7 17 available on the internet in the same manner as provided in
7 18 section 459.302.

7 19 2. a. The department shall provide for procedures for the
7 20 receipt, filing, processing, and return of documents in an
7 21 electronic format in the same manner as provided in section
7 22 459.302. The department shall provide for authentication of
7 23 the documents that may include electronic signatures as
7 24 provided in chapter 554D.

7 25 b. The department shall to every extent feasible provide
7 26 for the processing of documents required under this subchapter
7 27 using electronic systems in the same manner as required in

7 28 section 459.302.

7 29 3. a. The department shall approve or disapprove an
7 30 application for a construction permit as provided in section
7 31 459A.205 within sixty days after receiving the permit
7 32 application. However, the applicant may deliver a notice
7 33 requesting a continuance. Upon receipt of a notice, the time
7 34 required for the department to act upon the application shall
7 35 be suspended for the period provided in the notice, but for
8 1 not more than thirty days after the department's receipt of
8 2 the notice. The applicant may submit more than one notice.
8 3 However, the department may provide that an application is
8 4 terminated if no action is required by the department for one
8 5 year following delivery of the application to the department.
8 6 The department may also provide for a continuance when it
8 7 considers the application. The department shall provide
8 8 notice to the applicant of the continuance. The time required
8 9 for the department to act upon the application shall be
8 10 suspended for the period provided in the notice, but for not
8 11 more than thirty days. However, the department shall not
8 12 provide for more than one continuance.

8 13 b. A nutrient management plan as provided in section
8 14 459A.208 shall be approved or disapproved as part of a
8 15 construction permit application pursuant to section 459A.205.
8 16 If the nutrient management plan is not part of an application
8 17 for a construction permit, the nutrient management plan shall
8 18 be approved or disapproved within sixty days from the date
8 19 that the department receives the nutrient management plan.

8 20 Sec. 7. NEW SECTION. 459A.205 PERMIT REQUIREMENTS ==
8 21 SETTLED OPEN FEEDLOT EFFLUENT BASINS AND ALTERNATIVE
8 22 TECHNOLOGY SYSTEMS.

8 23 1. The department shall approve or disapprove applications
8 24 for permits for the construction, including the expansion, of
8 25 settled open feedlot effluent basins and alternative
8 26 technology systems, as provided in this chapter. The
8 27 department's decision to approve or disapprove a permit for
8 28 the construction of a basin or alternative system shall be
8 29 based on whether the application is submitted according to
8 30 procedures and standards required by this chapter. A person
8 31 shall not begin construction of a basin or alternative system
8 32 requiring a permit under this section, unless the department
8 33 first approves the person's application and issues to the
8 34 person a construction permit.

8 35 2. The department shall issue a construction permit upon
9 1 approval of an application. The department shall approve the
9 2 application regardless of whether the applicant is required to
9 3 be issued a construction permit.

9 4 3. The department shall not approve an application for a
9 5 construction permit unless the applicant submits all of the
9 6 following:

9 7 a. For an open feedlot operation submitting an application
9 8 for a construction permit on or after September 30, 2006, a
9 9 nutrient management plan as provided in section 459A.208.

9 10 b. An engineering report, construction plans, and
9 11 specifications prepared by a licensed professional engineer or
9 12 the natural resources conservation service of the United
9 13 States department of agriculture certifying that the
9 14 construction of the settled open feedlot effluent basin or
9 15 alternative technology system complies with the construction
9 16 design standards required in this chapter.

9 17 4. An open feedlot operation must be issued a construction
9 18 permit prior to any of the following:

9 19 a. The construction, including expansion, of a settled
9 20 open feedlot effluent basin or alternative technology system
9 21 if the open feedlot operation is required to be issued an
9 22 operating permit.

9 23 b. The department has previously issued the open feedlot
9 24 operation a construction permit and any of the following
9 25 applies:

9 26 (1) The animal unit capacity of the open feedlot operation
9 27 will be increased to more than the animal unit capacity
9 28 approved by the department in the previous construction
9 29 permit.

9 30 (2) The volume of open feedlot effluent stored at the open
9 31 feedlot operation would be more than the volume approved by
9 32 the department in the previous construction permit.

9 33 (3) The open feedlot operation was discontinued for
9 34 twenty-four months or more and the animal unit capacity would
9 35 be one thousand animal units or more.

10 1 5. Prior to submitting an application for a construction
10 2 permit the applicant may submit a conceptual design and site
10 3 investigation report to the department for review and comment.

10 4 6. The application for the construction permit shall
10 5 include all of the following:

- 10 6 a. The name of the owner of the open feedlot operation and
10 7 the name of the open feedlot operation, including a mailing
10 8 address and telephone number for the owner and the operation.
- 10 9 b. The name of the contact person for the open feedlot
10 10 operation, including the person's mailing address and
10 11 telephone number.
- 10 12 c. The location of the open feedlot operation.
- 10 13 d. A statement providing that the application is for any
10 14 of the following:
 - 10 15 (1) The construction or expansion of a settled open
10 16 feedlot effluent basin or alternative technology system for an
10 17 existing open feedlot operation which is not expanding.
 - 10 18 (2) The construction or expansion of a settled open
10 19 feedlot effluent basin or alternative technology system for an
10 20 existing open feedlot operation which is expanding.
 - 10 21 (3) The construction of a settled open feedlot effluent
10 22 basin or alternative technology system for a proposed new open
10 23 feedlot operation.
- 10 24 e. The animal unit capacity for each animal species in the
10 25 open feedlot operation before and after the proposed
10 26 construction.
- 10 27 f. An engineering report, construction plans, and
10 28 specifications prepared by a licensed professional engineer or
10 29 by the United States natural resource conservation service,
10 30 for the settled open feedlot operation effluent basin or
10 31 alternative technology system.
- 10 32 g. A soils and hydrogeologic report of the site, as
10 33 required in section 459A.206.
- 10 34 h. Information, including but not limited to maps,
10 35 drawings, and aerial photos that clearly show the location of
11 1 all of the following:
 - 11 2 (1) The open feedlot operation and all existing and
11 3 proposed settled open feedlot effluent basins or alternative
11 4 technology systems, clean water diversions, and other
11 5 pertinent features or structures.
 - 11 6 (2) Any other open feedlot operation under common
11 7 ownership or common management and located within one thousand
11 8 two hundred fifty feet of the open feedlot operation.
 - 11 9 (3) A public water supply system as defined in section
11 10 455B.171 or a drinking water well which is located within a
11 11 distance from the operation as prescribed by rules adopted by
11 12 the department.
- 11 13 i. For an open feedlot operation implementing an
11 14 alternative technology system as provided in section 459A.303,
11 15 the applicant shall submit all of the following:
 - 11 16 (1) Information showing that the proposed open feedlot
11 17 operation meets criteria for siting as established by rules
11 18 adopted by the department. However, if the site does not meet
11 19 the criteria, the information shall show substantially
11 20 equivalent alternatives to meeting such criteria.
 - 11 21 (2) The results of predictive computer modeling for the
11 22 proposed alternative technology system to determine
11 23 suitability of the proposed site for the system and to predict
11 24 performance of the alternative technology system as compared
11 25 to the use of a settled open feedlot effluent basin.
 - 11 26 (3) A conceptual design of the proposed alternative
11 27 technology system, as developed by a licensed engineer.

11 28 7. a. Except as provided in paragraph "b", a construction
11 29 permit for an open feedlot operation expires as follows:

- 11 30 (1) If construction does not begin within one year after
11 31 the date the construction permit is issued.
- 11 32 (2) If construction is not completed within three years
11 33 after the date the construction permit is issued.

11 34 b. If requested, the department may grant an extension of
11 35 time to begin or complete construction upon a showing of just
12 1 cause by the construction permit applicant.

12 2 8. The department may suspend or revoke a construction
12 3 permit, modify the terms or conditions of a construction
12 4 permit, or disapprove a request to extend the time to begin or
12 5 complete construction as provided in this section, if it
12 6 determines that the operation of the open feedlot operation
12 7 constitutes a clear, present, and impending danger to public
12 8 health or the environment.

12 9 9. This section does not require a person to be issued a
12 10 permit to construct a settled open feedlot effluent basin or
12 11 alternative technology system if the basin or system is part
12 12 of an open feedlot operation which is owned by a research
12 13 college conducting research activities as provided in section
12 14 459A.105.

12 15 Sec. 8. NEW SECTION. 459A.206 SETTLED OPEN FEEDLOT
12 16 EFFLUENT BASINS == SOILS AND HYDROGEOLOGIC REPORT.
12 17 A settled open feedlot effluent basin required to be
12 18 constructed pursuant to a construction permit issued pursuant
12 19 to section 459A.205 shall meet design standards as required by
12 20 a soils and hydrogeologic report.
12 21 The report shall be submitted with the construction permit
12 22 application as provided in section 459A.205. The report shall
12 23 include all of the following:
12 24 1. A description of the steps to determine the soils and
12 25 hydrogeologic conditions at the proposed construction site, a
12 26 description of the geologic units encountered, and a
12 27 description of the effects of the soil and groundwater
12 28 elevation and direction of flow on the construction and
12 29 operation of the basin.
12 30 2. The subsurface soil classification of the site. A
12 31 subsurface soil classification shall be based on ASTM
12 32 international designation D=2487=92 or D=2488=90.
12 33 3. The results of at least three soil corings reflecting
12 34 the continuous soil profile taken for each basin. The soil
12 35 corings shall be taken and used in determining subsurface soil
13 1 characteristics and groundwater elevation and direction of
13 2 flow of the proposed site for construction. The soil corings
13 3 shall be taken as follows:
13 4 a. By a qualified person ordinarily engaged in the
13 5 practice of taking soil cores and in performing soil testing.
13 6 b. At locations that reflect the continuous soil profile
13 7 conditions existing within the area of the proposed basin,
13 8 including conditions found near the corners and the deepest
13 9 point of the proposed basin. The soil corings shall be taken
13 10 to a minimum depth of ten feet below the bottom elevation of
13 11 the basin.
13 12 c. By a method such as hollow stem auger or other method
13 13 that identifies the continuous soil profile and does not
13 14 result in the mixing of soil layers.
13 15 Sec. 9. NEW SECTION. 459A.207 CONSTRUCTION
13 16 CERTIFICATION.
13 17 1. The owner of an open feedlot operation who is issued a
13 18 construction permit for a settled open feedlot effluent basin
13 19 as provided in section 459A.205 after the effective date of
13 20 this Act shall submit to the department a construction
13 21 certification from a licensed professional engineer certifying
13 22 all of the following:
13 23 a. The basin was constructed in accordance with the design
13 24 plans submitted to the department as part of an application
13 25 for a construction permit pursuant to section 459A.205. If
13 26 the actual construction deviates from the approved design
13 27 plans, the construction certification shall identify all
13 28 changes and certify that the changes were consistent with all
13 29 applicable standards of this section.
13 30 b. The basin was inspected by the licensed professional
13 31 engineer after completion of construction and before
13 32 commencement of operation.
13 33 2. A written record of an investigation for drainage tile
13 34 lines, including the findings of the investigation and actions
13 35 taken to comply with subchapter III, shall be submitted as
14 1 part of the construction certification.
14 2 Sec. 10. NEW SECTION. 459A.208 NUTRIENT MANAGEMENT PLAN
14 3 == REQUIREMENTS.
14 4 1. The owner of an open feedlot operation which has an
14 5 animal unit capacity of one thousand animal units or more or
14 6 which is required to be issued an operating permit shall
14 7 develop and implement a nutrient management plan meeting the
14 8 requirements of this section by December 31, 2006.
14 9 2. Not more than one open feedlot operation shall be
14 10 covered by a single nutrient management plan.
14 11 3. A person shall not remove open feedlot effluent from an
14 12 open feedlot operation structure which is part of an open
14 13 feedlot operation for which a nutrient management plan is
14 14 required under this section, unless the department approves a
14 15 nutrient management plan as required in this section. The
14 16 department may adopt rules allowing a person to remove open
14 17 feedlot effluent from an open feedlot operation structure
14 18 until the nutrient management plan is approved or disapproved
14 19 by the department according to terms and conditions required
14 20 by rules adopted by the department.
14 21 4. The department shall not approve an application for a
14 22 permit to construct a settled open feedlot effluent basin
14 23 unless the owner of the open feedlot operation applying for
14 24 approval submits a nutrient management plan together with the
14 25 application for the construction permit as provided in section

14 26 459A.205. The owner shall also submit proof that the owner
14 27 has published a notice for public comment as provided in this
14 28 section. The department shall approve or disapprove the
14 29 nutrient management plan as provided in section 459A.201. A
14 30 nutrient management plan using an alternative technology
14 31 system shall not include requirements for settled effluent
14 32 that enters the alternative technology system.

14 33 5. Prior to approving or disapproving a nutrient
14 34 management plan as required in this section, the department
14 35 may receive comments exclusively to determine whether the
15 1 nutrient management plan is submitted according to procedures
15 2 required by the department and that the nutrient management
15 3 plan complies with the provisions of this chapter.

15 4 a. The owner of the open feedlot operation shall publish a
15 5 notice for public comment in a newspaper having a general
15 6 circulation in the county where the open feedlot operation is
15 7 or is proposed to be located and in the county where open
15 8 feedlot effluent, which originates from the open feedlot
15 9 operation, may be applied under the terms and conditions of
15 10 the nutrient management plan.

15 11 b. The notice for public comment shall include all of the
15 12 following:

15 13 (1) The name of the owner of the open feedlot operation
15 14 submitting the nutrient management plan.

15 15 (2) The name of the township where the open feedlot
15 16 operation is or is proposed to be located and the name of the
15 17 township where open feedlot effluent originating from the open
15 18 feedlot operation may be applied.

15 19 (3) The animal unit capacity of the open feedlot
15 20 operation.

15 21 (4) The time when and the place where the nutrient
15 22 management plan may be examined as provided in section 22.2.

15 23 (5) Procedures for providing public comment to the
15 24 department. The notice shall also include procedures for
15 25 requesting a public hearing conducted by the department. The
15 26 department is not required to conduct a public hearing if it
15 27 does not receive a request for the public hearing within ten
15 28 days after the first publication of the notice for public
15 29 comment as provided in this subsection. If such a request is
15 30 received, the public hearing must be conducted within thirty
15 31 days after the first date that the notice for public comment
15 32 was published.

15 33 (6) A statement that a person may acquire information
15 34 relevant to making comments under this subsection by accessing
15 35 the department's internet website. The notice for public
16 1 comment shall include the address of the department's internet
16 2 website as required by the department.

16 3 c. The department shall maintain an internet website where
16 4 persons may access information relevant to making comments
16 5 under this subsection. The department may include an
16 6 electronic version of the nutrient management plan as provided
16 7 in section 459A.201. The department shall include information
16 8 regarding the time when, the place where, and the manner in
16 9 which persons may participate in a public hearing as provided
16 10 in this subsection.

16 11 6. A nutrient management plan must be authenticated by the
16 12 owner of the animal feeding operation as required by the
16 13 department in accordance with section 459A.201.

16 14 7. A nutrient management plan shall include all of the
16 15 following:

16 16 a. Restrictions on the application of open feedlot
16 17 effluent based on all of the following:

16 18 (1) Calculations necessary to determine the land area
16 19 required for the application of open feedlot effluent from an
16 20 open feedlot operation based on nitrogen use levels in order
16 21 to obtain optimum crop yields according to a crop schedule
16 22 specified in the nutrient management plan, and according to
16 23 requirements adopted by the department.

16 24 (2) A phosphorus index established pursuant to section
16 25 459.312.

16 26 b. Information relating to the application of the open
16 27 feedlot effluent, including all of the following:

16 28 (1) Nutrient levels of the open feedlot effluent.

16 29 (2) Application methods, the timing of the application,
16 30 and the location of the land where the application occurs.

16 31 c. If the application is on land other than land owned or
16 32 rented for crop production by the owner of the open feedlot
16 33 operation, the plan shall include a copy of each written
16 34 agreement executed by the owner of the open feedlot operation
16 35 and the landowner or the person renting the land for crop
17 1 production where the open feedlot effluent may be applied.

17 2 d. An estimate of the open feedlot effluent volume or
17 3 weight produced by the open feedlot operation.
17 4 e. Information which shows all of the following:
17 5 (1) There is adequate storage for open feedlot effluent,
17 6 including procedures to ensure proper operation and
17 7 maintenance of the storage structures.
17 8 (2) The proper management of animal mortalities to ensure
17 9 that animals are not disposed of in an open feedlot operation
17 10 structure or a treatment system that is not specifically
17 11 designed to treat animal mortalities.
17 12 (3) Surface drainage prior to contact with an open feedlot
17 13 structure is diverted, as appropriate, from the open feedlot
17 14 operation.
17 15 (4) Animals kept in the open feedlot operation do not have
17 16 direct contact with any waters of the United States.
17 17 (5) Chemicals or other contaminants handled on-site are
17 18 not disposed of in an open feedlot operation structure or a
17 19 treatment system that is not specifically designed to treat
17 20 such chemicals or contaminants.
17 21 8. If an open feedlot operation uses an alternative
17 22 technology system as provided in section 459A.303, the
17 23 nutrient management plan is not required to provide for
17 24 settled effluent that enters the alternative technology
17 25 system.
17 26 9. The owner of an open feedlot operation who is required
17 27 to develop and implement a nutrient management plan shall
17 28 maintain a current nutrient management plan and maintain
17 29 records sufficient to demonstrate compliance with the nutrient
17 30 management plan.

17 31 SUBCHAPTER III

17 32 DESIGN STANDARDS AND CONSTRUCTION REQUIREMENTS

17 33 Sec. 11. NEW SECTION. 459A.301 SETTLED OPEN FEEDLOT
17 34 EFFLUENT BASINS == CONSTRUCTION DESIGN STANDARDS == RULES.

17 35 If the department requires that a settled open feedlot
18 1 effluent basin be constructed according to construction design
18 2 standards, regardless of whether the department requires the
18 3 owner to be issued a construction permit under section
18 4 459A.205, any construction design standards for the basin
18 5 shall be established by rules as provided in chapter 17A that
18 6 exclusively account for special design characteristics of open
18 7 feedlot operations and related basins, including but not
18 8 limited to the dilute composition of settled open feedlot
18 9 effluent as collected and stored in the basins.

18 10 Sec. 12. NEW SECTION. 459A.302 SETTLED OPEN FEEDLOT
18 11 EFFLUENT BASINS == CONSTRUCTION REQUIREMENTS.

18 12 A settled open feedlot effluent basin required to be
18 13 constructed pursuant to a construction permit issued pursuant
18 14 to section 459A.205 shall meet all of the following
18 15 requirements:

18 16 1. a. Prior to constructing a settled open feedlot
18 17 effluent basin, the site for the basin shall be investigated
18 18 for a drainage tile line by the owner of the open feedlot
18 19 operation. The investigation shall be made by digging a core
18 20 trench to a depth of at least six feet deep from ground level
18 21 at the projected center of the berm of the basin. If a
18 22 drainage tile line is discovered, one of the following
18 23 solutions shall be implemented:

18 24 (1) The drainage tile line shall be rerouted around the
18 25 perimeter of the basin at a distance of least twenty-five feet
18 26 horizontally separated from the outside edge of the berm of
18 27 the basin. For an area of the basin where there is not a
18 28 berm, the drainage tile line shall be rerouted at least fifty
18 29 feet horizontally separated from the edge of the basin.

18 30 (2) The drainage tile line shall be replaced with a
18 31 nonperforated tile line under the basin floor. The
18 32 nonperforated tile line shall be continuous and without
18 33 connecting joints. There must be a minimum of three feet
18 34 between the nonperforated tile line and the basin floor.

18 35 b. A written record of the investigation shall be
19 1 submitted as part of the construction certification required
19 2 under section 459A.207.

19 3 2. a. The settled open feedlot effluent basin shall be
19 4 constructed with a minimum separation of two feet between the
19 5 top of the liner of the basin and the seasonal high-water
19 6 table.

19 7 b. If a drainage tile line around the perimeter of the
19 8 basin is installed a minimum of two feet below the top of the
19 9 basin liner to artificially lower the seasonal high-water
19 10 table, the top of the basin's liner may be a maximum of four
19 11 feet below the seasonal high-water table. The seasonal high-
19 12 water table may be artificially lowered by gravity flow tile

19 13 lines or other similar system. However the following shall
19 14 apply:

19 15 (1) Except as provided in subparagraph (2), an open
19 16 feedlot operation shall not use a nongravity mechanical system
19 17 that uses pumping equipment.

19 18 (2) If the open feedlot operation was constructed before
19 19 the effective date of this Act, the operation may continue to
19 20 use its existing nongravity mechanical system that uses
19 21 pumping equipment or it may construct a new nongravity
19 22 mechanical system that uses pumping equipment. However, an
19 23 open feedlot operation that expands the area of its open
19 24 feedlot on or after April 1, 2011, shall not use a nongravity
19 25 mechanical system that uses pumping equipment.

19 26 3. Drainage tile lines may be installed to artificially
19 27 lower the seasonal high-water table at a settled open feedlot
19 28 effluent basin, if all of the following conditions are
19 29 satisfied:

19 30 a. A device to allow monitoring of the water in the
19 31 drainage tile lines and a device to allow shutoff of the flow
19 32 in the drainage tile lines are installed, if the drainage tile
19 33 lines do not have a surface outlet accessible on the property
19 34 where the settled open feedlot effluent basin is located.

19 35 b. Drainage tile lines are installed horizontally at least
20 1 twenty-five feet away from the settled open feedlot effluent
20 2 basin. Drainage tile lines shall be placed in a vertical
20 3 trench and encased in granular material which extends upward
20 4 to the level of the seasonal high-water table.

20 5 4. A settled open feedlot effluent basin shall be
20 6 constructed with at least four feet between the bottom of the
20 7 basin and a bedrock formation.

20 8 5. A settled open feedlot effluent basin constructed on a
20 9 floodplain or within a floodway of a river or stream shall
20 10 comply with rules of the department.

20 11 6. The liner of a settled open feedlot effluent basin
20 12 shall comply with all of the following:

20 13 a. The liner shall comply with any of the following
20 14 permeability standards:

20 15 (1) The liner shall be constructed to have a percolation
20 16 rate that shall not exceed one-sixteenth inch per day at the
20 17 design depth of the basin as determined by percolation tests
20 18 conducted by the professional engineer. If a clay soil liner
20 19 is used, the liner shall be constructed with a minimum
20 20 thickness of twelve inches or the minimum thickness necessary
20 21 to comply with the percolation rate in this section, whichever
20 22 is greater.

20 23 (2) The liner shall be constructed at optimum moisture
20 24 content not less than ninety-five percent of the maximum
20 25 density as determined by a standard five-point proctor test
20 26 performed at the site of the open feedlot operation by a
20 27 professional engineer. If a clay soil liner is used, the
20 28 liner shall be constructed with a minimum thickness of twelve
20 29 inches.

20 30 b. If a synthetic liner is used, the liner shall be
20 31 installed to comply with the percolation rate required in this
20 32 section.

20 33 7. The owner of an open feedlot operation using a settled
20 34 open feedlot effluent basin shall inspect the berms of the
20 35 basin at least semiannually for evidence of erosion. If the
21 1 inspection reveals erosion which may impact the basin's
21 2 structural stability or the integrity of the basin's liner,
21 3 the owner shall repair the berms.

21 4 Sec. 13. NEW SECTION. 459A.303 ALTERNATIVE TECHNOLOGY
21 5 SYSTEMS.

21 6 In lieu of using a settled open feedlot effluent basin as
21 7 provided in section 459A.302 to meet the open feedlot effluent
21 8 control requirements of section 459A.401, an open feedlot
21 9 operation may use an alternative technology system for open
21 10 feedlot effluent control.

21 11 1. The alternative technology system must provide an
21 12 equivalent level of open feedlot effluent control as would be
21 13 achieved by using a settled open feedlot effluent basin.

21 14 2. The department shall adopt rules establishing
21 15 requirements for the construction and operation of alternative
21 16 technology systems.

21 17 SUBCHAPTER IV

21 18 OPEN FEEDLOT EFFLUENT CONTROL

21 19 Sec. 14. NEW SECTION. 459A.401 OPEN FEEDLOT EFFLUENT
21 20 CONTROL METHODS.

21 21 An open feedlot operation shall provide for the management
21 22 of open feedlot effluent by using an open feedlot effluent
21 23 control method as follows:

21 24 1. All settleable solids from open feedlot effluent shall
21 25 be removed prior to discharge into the waters of the state.
21 26 a. The settleable solids shall be removed by use of a
21 27 solids settling facility. The construction of a solids
21 28 settling facility is not required where existing site
21 29 conditions provide for removal of settleable solids prior to
21 30 discharge into the waters of the state.

21 31 b. The removal of settleable solids shall be deemed to
21 32 have occurred when the velocity of flow of the open feedlot
21 33 effluent has been reduced to less than point five feet per
21 34 second for a minimum of five minutes. A solids settling
21 35 facility shall have sufficient capacity to store settled
22 1 solids between periods of land application and to provide
22 2 required flow-velocity reduction for open feedlot effluent
22 3 flow volumes resulting from a precipitation event of less
22 4 intensity than a ten-year, one-hour frequency event. A solids
22 5 settling facility which receives open feedlot effluent shall
22 6 provide a minimum of one square foot of surface area for each
22 7 eight cubic feet of open feedlot effluent per hour resulting
22 8 from a ten-year, one-hour frequency precipitation event.

22 9 2. This subsection shall apply to an open feedlot
22 10 operation which is required to be issued an operating permit.

22 11 a. An open feedlot operation may discharge open feedlot
22 12 effluent into any waters of the United States due to a
22 13 precipitation event, if any of the following apply:

22 14 (1) For an open feedlot operation that houses cattle,
22 15 other than veal cattle, the operation is designed,
22 16 constructed, operated, and maintained to not discharge open
22 17 feedlot effluent resulting from a twenty-five-year, twenty=
22 18 four-hour precipitation event into any waters of the United
22 19 States.

22 20 (2) For an open feedlot operation that houses veal calves,
22 21 swine, chickens, or turkeys, the operation is designed,
22 22 constructed, operated, and maintained to not discharge open
22 23 feedlot effluent resulting from a one-hundred-year, twenty=
22 24 four-hour precipitation event into any waters of the United
22 25 States.

22 26 b. If the open feedlot operation is designed, constructed,
22 27 and operated in accordance with the requirements of an open
22 28 feedlot effluent control system as provided in rules adopted
22 29 by the department, the operation shall be deemed to be in
22 30 compliance with this section, unless a discharge from the
22 31 operation causes a violation of state water quality standards
22 32 as provided in chapter 455B, division III.

22 33 3. The following shall apply to an open feedlot operation
22 34 which has an animal unit capacity of one thousand animal units
22 35 or more:

23 1 a. (1) The open feedlot operation shall not discharge
23 2 open feedlot effluent from an open feedlot operation structure
23 3 into any waters of the United States, unless the discharge is
23 4 pursuant to an operating permit.

23 5 (2) The open feedlot operation shall not be required to be
23 6 issued an operating permit if the operation does not discharge
23 7 open feedlot effluent into any waters of the United States.

23 8 b. The control of open feedlot effluent originating from
23 9 the open feedlot operation may be accomplished by the use of a
23 10 solids settling facility, settled open feedlot effluent basin,
23 11 alternative technology system, or any other open feedlot
23 12 effluent control structure or practice approved by the
23 13 department. The department may require the diversion of
23 14 surface drainage prior to contact with an open feedlot
23 15 operation structure. Solids shall be settled from open
23 16 feedlot effluent before the effluent enters a settled open
23 17 feedlot effluent basin or alternative technology system.

23 18 Sec. 15. NEW SECTION. 459A.402 OPEN FEEDLOT EFFLUENT
23 19 CONTROL == ALTERNATIVE CONTROL PRACTICES.

23 20 If because of topography or other factors related to the
23 21 site of an open feedlot operation it is economically or
23 22 physically impractical to comply with open feedlot effluent
23 23 control requirements using an open feedlot control method in
23 24 section 459A.401, the department shall allow the use of other
23 25 open feedlot effluent control practices if those practices
23 26 will provide an equivalent level of open feedlot effluent
23 27 control that would be achieved by using an open feedlot
23 28 effluent control method pursuant to section 459A.401.

23 29 Sec. 16. NEW SECTION. 459A.410 EFFLUENT APPLICATION
23 30 REQUIREMENTS.

23 31 Open feedlot effluent shall be applied in a manner which
23 32 does not cause surface water or groundwater pollution.
23 33 Application in accordance with the provisions of state law,
23 34 including this chapter, rules adopted pursuant to the

23 35 provisions of state law, including this chapter, and
24 1 guidelines adopted pursuant to this chapter, shall be deemed
24 2 as compliance with this section.

24 3 Sec. 17. NEW SECTION. 459A.411 DISCONTINUANCE OF
24 4 OPERATIONS.

24 5 The owner of an open feedlot operation who discontinues the
24 6 use of the operation shall remove all open feedlot effluent
24 7 from related open feedlot operation structures used to store
24 8 open feedlot effluent, as soon as practical but not later than
24 9 six months following the date the open feedlot operation is
24 10 discontinued.

24 11 SUBCHAPTER V
24 12 ENFORCEMENT

24 13 Sec. 18. NEW SECTION. 459A.501 GENERAL.

24 14 The department and the attorney general shall enforce the
24 15 provisions of this chapter in the same manner as provided in
24 16 chapter 455B, division I, unless otherwise provided in this
24 17 chapter.

24 18 Sec. 19. NEW SECTION. 459A.502 VIOLATIONS == CIVIL
24 19 PENALTY.

24 20 A person who violates this chapter shall be subject to a
24 21 civil penalty which shall be established, assessed, and
24 22 collected in the same manner as provided in section 455B.191.
24 23 Any civil penalty collected and interest on a civil penalty
24 24 shall be deposited in the animal agriculture compliance fund
24 25 created in section 459.401. A person shall not be subject to
24 26 a penalty under this section and a penalty under section
24 27 459.603 for the same violation.

24 28 DIVISION II

24 29 CONFORMING AMENDMENTS

24 30 Sec. 20. Section 455B.103, subsections 3 and 4, Code 2005,
24 31 are amended to read as follows:

24 32 3. Contract, with the approval of the commission, with
24 33 public agencies of this state to provide all laboratory,
24 34 scientific field measurement and environmental quality
24 35 evaluation services necessary to implement the provisions of
25 1 this chapter, ~~and chapter 459, subchapters II and III and~~
25 2 ~~chapter 459A.~~ If the director finds that public agencies of
25 3 this state cannot provide the laboratory, scientific field
25 4 measurement and environmental evaluation services required by
25 5 the department, the director may contract, with the approval
25 6 of the commission, with any other public or private persons or
25 7 agencies for such services or for scientific or technical
25 8 services required to carry out the programs and services
25 9 assigned to the department.

25 10 4. Conduct investigations of complaints received directly
25 11 or referred by the commission created in section 455A.6 or
25 12 other investigations deemed necessary. While conducting an
25 13 investigation, the director may enter at any reasonable time
25 14 in and upon any private or public property to investigate any
25 15 actual or possible violation of this chapter, ~~or chapter 459,~~
25 16 ~~subchapters II and III, chapter 459A, or the rules or~~
25 17 ~~standards adopted under this chapter, or chapter 459,~~
25 18 ~~subchapters II and III or chapter 459A.~~ However, the owner or
25 19 person in charge shall be notified.

25 20 Sec. 21. Section 455B.103A, subsection 1, unnumbered
25 21 paragraph 1, Code 2005, is amended to read as follows:

25 22 If a permit is required pursuant to this chapter, ~~or~~
25 23 ~~chapter 459, or chapter 459A~~ for stormwater discharge or an
25 24 air contaminant source and a facility to be permitted is
25 25 representative of a class of facilities which could be
25 26 described and conditioned by a single permit, the director may
25 27 issue, modify, deny, or revoke a general permit for all of the
25 28 following conditions:

25 29 Sec. 22. Section 455B.103A, subsection 5, Code 2005, is
25 30 amended to read as follows:

25 31 5. The enforcement provisions of division II of this
25 32 chapter and chapter 459, subchapter II, apply to general
25 33 permits for air contaminant sources. The enforcement
25 34 provisions of division III, part 1, of this chapter, ~~and~~
25 35 ~~chapter 459, subchapter III, and chapter 459A~~ apply to general
26 1 permits for stormwater discharge.

26 2 Sec. 23. Section 455B.105, subsections 3, 6, and 8, Code
26 3 2005, are amended to read as follows:

26 4 3. Adopt, modify, or repeal rules necessary to implement
26 5 this chapter, ~~and chapter 459, and chapter 459A,~~ and the rules
26 6 deemed necessary for the effective administration of the
26 7 department. When the commission proposes or adopts rules to
26 8 implement a specific federal environmental program and the
26 9 rules impose requirements more restrictive than the federal
26 10 program being implemented requires, the commission shall

26 11 identify in its notice of intended action or adopted rule
26 12 preamble each rule that is more restrictive than the federal
26 13 program requires and shall state the reasons for proposing or
26 14 adopting the more restrictive requirement. In addition, the
26 15 commission shall include with its reasoning a financial impact
26 16 statement detailing the general impact upon the affected
26 17 parties. It is the intent of the general assembly that the
26 18 commission exercise strict oversight of the operations of the
26 19 department. The rules shall include departmental policy
26 20 relating to the disclosure of information on a violation or
26 21 alleged violation of the rules, standards, permits or orders
26 22 issued by the department and keeping of confidential
26 23 information obtained by the department in the administration
26 24 and enforcement of this chapter, ~~and chapter 459, and chapter~~
26 25 459A. Rules adopted by the executive committee before January
26 26 1, 1981, shall remain effective until modified or rescinded by
26 27 action of the commission.

26 28 6. Approve all contracts and agreements under this
26 29 chapter, ~~and chapter 459, and chapter 459A~~ between the
26 30 department and other public or private persons or agencies.

26 31 8. Hold public hearings, except when the evidence to be
26 32 received is confidential pursuant to this chapter, chapter 22,
26 33 ~~or chapter 459, or chapter 459A,~~ necessary to carry out its
26 34 powers and duties. The commission may issue subpoenas
26 35 requiring the attendance of witnesses and the production of
27 1 evidence pertinent to the hearings. A subpoena shall be
27 2 issued and enforced in the same manner as provided in civil
27 3 actions.

27 4 Sec. 24. Section 455B.105, subsection 11, paragraph a,
27 5 unnumbered paragraph 1, Code 2005, is amended to read as
27 6 follows:

27 7 Adopt, by rule, procedures and forms necessary to implement
27 8 the provisions of this chapter, ~~and chapter 459, and chapter~~
27 9 459A relating to permits, conditional permits, and general

27 10 permits. The commission may also adopt, by rule, a schedule
27 11 of fees for permit and conditional permit applications and a
27 12 schedule of fees which may be periodically assessed for
27 13 administration of permits and conditional permits. In
27 14 determining the fee schedules, the commission shall consider:

27 15 Sec. 25. Section 455B.109, subsection 4, Code 2005, is
27 16 amended to read as follows:

27 17 4. a. All Except as provided in paragraph "b", civil
27 18 penalties assessed by the department and interest on the
27 19 penalties shall be deposited in the general fund of the state.
27 20 ~~However, civil~~

27 21 b. The following provisions shall apply to animal feeding
27 22 operations:

27 23 (1) Civil penalties assessed by the department and
27 24 interest on the civil penalties, arising out of violations
27 25 involving animal feeding operations under chapter 459,
27 26 subchapter II, shall be deposited in the animal agriculture
27 27 compliance fund as created in section 459.401.

27 28 (2) Civil penalties assessed by the department and
27 29 interest on the penalties arising out of violations committed
27 30 by animal feeding operations under chapter 459, subchapter
27 31 III, which may be assessed pursuant to section 455B.191 or
27 32 459.604, shall also be deposited in the animal agriculture
27 33 compliance fund.

27 34 (3) Civil penalties assessed by the department and
27 35 interest on the civil penalties, arising out of violations
28 1 involving open feedlot operations under chapter 459A, shall be
28 2 deposited in the animal agriculture compliance fund as created
28 3 in section 459.401.

28 4 Sec. 26. Section 455B.111, subsection 1, paragraphs a and
28 5 b, Code 2005, are amended to read as follows:

28 6 a. A person, including the state of Iowa, for violating
28 7 any provision of this chapter; ~~or chapter 459, subchapters I,~~
28 8 ~~II, III, IV, and VI;~~ chapter 459A; or a rule adopted pursuant
28 9 to this chapter; ~~or chapter 459, subchapters I, II, III, IV,~~
28 10 ~~and VI;~~ or chapter 459A.

28 11 b. The director, the commission, or any official or
28 12 employee of the department where there is an alleged failure
28 13 to perform any act or duty under this chapter; ~~or chapter 459,~~
28 14 ~~subchapters I, II, III, IV, and VI;~~ chapter 459A; or a rule
28 15 adopted pursuant to this chapter; ~~or chapter 459, subchapters~~
28 16 ~~I, II, III, IV, and VI;~~ or chapter 459A, which is not a
28 17 discretionary act or duty.

28 18 Sec. 27. Section 455B.111, subsection 5, Code 2005, is
28 19 amended to read as follows:

28 20 5. This section does not restrict any right under
28 21 statutory or common law of a person or class of person to seek

28 22 enforcement of provisions of this chapter, ~~or~~ chapter 459,
28 23 subchapters I, II, III, IV, and VI; ~~chapter 459A;~~ or a rule
28 24 adopted pursuant to this chapter; ~~or~~ chapter 459, subchapters
28 25 I, II, III, IV, and VI; ~~or chapter 459A,~~ or seek other relief
28 26 permitted under the law.
28 27 Sec. 28. Section 455B.112, Code 2005, is amended to read
28 28 as follows:
28 29 455B.112 ACTIONS BY ATTORNEY GENERAL.
28 30 In addition to the duty to commence legal proceedings at
28 31 the request of the director or commission under this chapter;
28 32 ~~or~~ chapter 459, subchapters I, II, III, IV, and VI; ~~or~~
28 33 chapter 459A the attorney general may institute civil or
28 34 criminal proceedings, including an action for injunction, to
28 35 enforce the provisions of this chapter; ~~or~~ chapter 459,
29 1 subchapters I, II, III, IV, and VI; ~~or chapter 459A~~ including
29 2 orders or permits issued or rules adopted under this chapter;
29 3 ~~or~~ chapter 459, subchapters I, II, III, IV, and VI; ~~or chapter~~
29 4 459A.
29 5 Sec. 29. Section 455B.113, subsection 1, Code 2005, is
29 6 amended to read as follows:
29 7 1. The director shall certify laboratories which perform
29 8 laboratory analyses of samples required to be submitted by the
29 9 department by this chapter; ~~or~~ chapter 459, subchapters I, II,
29 10 III, IV, and VI; ~~or chapter 459A,~~ or by rules adopted in
29 11 accordance with this chapter; ~~or~~ chapter 459, subchapters I,
29 12 II, III, IV, and VI; ~~or chapter 459A;~~ or by permits or orders
29 13 issued under this chapter; ~~or~~ chapter 459, subchapters I, II,
29 14 III, IV, and VI; ~~or chapter 459A.~~
29 15 Sec. 30. Section 455B.115, Code 2005, is amended to read
29 16 as follows:
29 17 455B.115 ANALYSIS BY CERTIFIED LABORATORY REQUIRED.
29 18 Laboratory analysis of samples as required by this chapter;
29 19 ~~or~~ chapter 459, subchapters I, II, III, IV, and VI; ~~or~~
29 20 chapter 459A; or by rules adopted, or by permits or orders
29 21 issued pursuant to this chapter; ~~or~~ chapter 459, subchapters
29 22 I, II, III, IV, and VI; ~~or chapter 459A~~ shall be conducted by
29 23 a laboratory certified by the director as having the necessary
29 24 competence, equipment, and capabilities to perform the
29 25 analysis. Analytical results from laboratories not
29 26 certificated shall not be accepted by the director.
29 27 Sec. 31. Section 455B.179, Code 2005, is amended to read
29 28 as follows:
29 29 455B.179 TRADE SECRETS PROTECTED.
29 30 Upon a satisfactory showing by any person to the director
29 31 that public disclosure of any record, report, permit, permit
29 32 application, or other document or information or part thereof
29 33 would divulge methods or processes entitled to protection as a
29 34 trade secret, any such record, report, permit, permit
29 35 application, or other document or part thereof other than
30 1 effluent data and analytical results of monitoring of public
30 2 water supply systems, shall be accorded confidential
30 3 treatment. Notwithstanding the provisions of chapter 22, a
30 4 person in connection with duties or employment by the
30 5 department shall not make public any information accorded
30 6 confidential status; however, any such record or other
30 7 information accorded confidential status may be disclosed or
30 8 transmitted to other officers, employees, or authorized
30 9 representatives of this state or the United States concerned
30 10 with carrying out this part of this division; ~~or~~ chapter 459,
30 11 subchapter III, ~~or chapter 459A;~~ or when relevant in any
30 12 proceeding under this part of this division; ~~or~~ chapter 459,
30 13 subchapter III; ~~or chapter 459A.~~
30 14 Sec. 32. Section 455B.182, Code 2005, is amended to read
30 15 as follows:
30 16 455B.182 FAILURE CONSTITUTES CONTEMPT.
30 17 Failure to obey any order issued by the department with
30 18 reference to a violation of this part of this division; ~~or~~
30 19 chapter 459, subchapter III; ~~or chapter 459A;~~ or any rule
30 20 promulgated or permit issued pursuant thereto shall constitute
30 21 prima facie evidence of contempt. In such event the
30 22 department may certify to the district court of the county in
30 23 which such alleged disobedience occurred the fact of such
30 24 failure. The district court after notice, as prescribed by
30 25 the court, to the parties in interest shall then proceed to
30 26 hear the matter and if it finds that the order was lawful and
30 27 reasonable it shall order the party to comply with the order.
30 28 If the person fails to comply with the court order, that
30 29 person shall be guilty of contempt and shall be fined not to
30 30 exceed five hundred dollars for each day that the person fails
30 31 to comply with the court order. The penalties provided in
30 32 this section shall be considered as additional to any penalty

30 33 which may be imposed under the law relative to nuisances or
30 34 any other statute relating to the pollution of any waters of
30 35 the state or related to public water supply systems and a
31 1 conviction under this section shall not be a bar to
31 2 prosecution under any other penal statute.
31 3 Sec. 33. Section 455B.185, Code 2005, is amended to read
31 4 as follows:
31 5 455B.185 DATA FROM DEPARTMENTS.
31 6 The commission and the director may request and receive
31 7 from any department, division, board, bureau, commission,
31 8 public body, or agency of the state, or of any political
31 9 subdivision thereof, or from any organization, incorporated or
31 10 unincorporated, which has for its object the control or use of
31 11 any of the water resources of the state, such assistance and
31 12 data as will enable the commission or the director to properly
31 13 carry out their activities and effectuate the purposes of this
31 14 part 1 of division III; ~~and chapter 459, subchapter III; or~~
31 15 ~~chapter 459A.~~ The department shall reimburse such agencies
31 16 for special expense resulting from expenditures not normally a
31 17 part of the operating expenses of any such agency.

31 18 Sec. 34. Section 459.102, subsection 2, paragraph a, Code
31 19 2005, is amended to read as follows:

31 20 a. A settled open feedlot effluent basin ~~that collects and~~
31 21 ~~stores only precipitation-induced runoff from an open feedlot~~
31 22 ~~as defined in section 459A.102.~~

31 23 Sec. 35. Section 459.102, subsections 37, 45, and 46, Code
31 24 2005, are amended by striking the subsections.

31 25 Sec. 36. Section 459.401, subsection 2, paragraph a,
31 26 subparagraph (5), Code 2005, is amended to read as follows:

31 27 (5) The collection of civil penalties assessed by the
31 28 department and interest on civil penalties, arising out of
31 29 violations involving animal feeding operations as provided in
31 30 sections 459.602, ~~and 459.603, and 459A.502.~~

31 31 Sec. 37. Section 459.309, Code 2005, is repealed.

31 32 DIVISION III

31 33 AGRICULTURAL PRODUCTION LIENS

31 34 Sec. 38. Section 579A.2, subsection 3, paragraph b, Code
31 35 2005, is amended to read as follows:

32 1 b. The lien terminates one year after the cattle have left
32 2 the custom cattle feedlot. ~~Section 554.9515 shall not apply~~
32 3 ~~to a financing statement perfecting the lien.~~ The lien may be
32 4 terminated by the custom cattle feedlot operator who files a
32 5 termination statement as provided in chapter 554, article 9.

32 6 Sec. 39. Section 579B.4, subsection 1, paragraph b, Code
32 7 2005, is amended to read as follows:

32 8 b. For a lien arising out of producing a crop, the lien
32 9 becomes effective the day that the crop is first planted. In
32 10 order to perfect the lien, the contract producer must file a
32 11 financing statement in the office of the secretary of state as
32 12 provided in section 554.9308. The contract producer must file
32 13 a financing statement for the crop within forty-five days
32 14 after the crop is first planted. The lien terminates one year
32 15 after the crop is no longer under the authority of the
32 16 contract producer. For purposes of this section, a crop is no
32 17 longer under the authority of the contract producer when the
32 18 crop or a warehouse receipt issued by a warehouse operator
32 19 licensed under chapter 203C for grain from the crop is no
32 20 longer under the custody or control of the contract producer.
32 21 ~~Section 554.9515 shall not apply to a financing statement~~
32 22 ~~perfecting the lien.~~ The lien may be terminated by the
32 23 contract producer who files a termination statement as
32 24 provided in chapter 554, article 9.

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32 29 CHRISTOPHER C. RANTS
32 30 Speaker of the House

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32 32 _____
32 33 JOHN P. KIBBIE
32 34 President of the Senate

33 1 I hereby certify that this bill originated in the House and
33 2 is known as House File 805, Eighty-first General Assembly.

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33 6 MARGARET THOMSON
33 7 Chief Clerk of the House

33 8 Approved _____, 2005

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33 12 THOMAS J. VILSACK
33 13 Governor
